

ORDINANCE NO. _____

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 7 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "FINANCE", BY AMENDING ARTICLE III ENTITLED "PROCUREMENT CODE", SPECIFICALLY AT SECTION 7-137 ENTITLED "COMPETITIVE SEALED BIDDING" AND SECTION 7-142 ENTITLED "INFORMAL PROCUREMENT PROCEDURE (SMALL PURCHASES)", TO INCREASE THE THRESHOLD DOLLAR AMOUNT USED TO AWARD CONTRACTS FROM FIFTY THOUSAND DOLLARS (\$50,000.00) TO ONE HUNDRED THOUSAND DOLLARS (100,000.00) WITHOUT THE NECESSITY FOR SEALED BID SOLICITATIONS; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, on October 23, 2007, the Mayor and City Council passed and adopted Ordinance No. 1244 ("Procurement Code") to establish a unified purchasing system with centralized responsibility to maximize the purchasing value of public funds for the City of North Miami ("City"); and

WHEREAS, the periodic review, analysis and rendition of improved versions of the Procurement Code is essential for the efficient and diligent conduct of City procurement services, while ensuring a fair and equitable treatment of all persons and entities providing supplies, goods, and services to the City for public use; and

WHEREAS, City administration respectfully recommends adoption of the proposed amendments in order to expedite the procurement process and for expedient delivery of supplies and services; and

WHEREAS, the Vice Mayor as Acting Mayor and City Council, find that the proposed amendments to the Procurement Code continues to protect and preserve the integrity of the procurement process, and serves the best interest the City and its residents.

NOW THEREFORE, BE IT ORDAINED BY THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendment to Chapter 7, Article III Code of Ordinances. The Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 7 of the North Miami Code of Ordinances entitled "Finance", by amending Article III entitled "Procurement Code", specifically at Section 7-137 entitled "Competitive Sealed Bidding" and Section 7-142 entitled "Informal Procurement Procedure (Small Purchases)", to increase the threshold dollar amount used to award contracts from Fifty Thousand Dollars (\$50,000.00) to One Hundred Thousand Dollars (100,000.00) without the necessity for sealed bid solicitations, as follows:

CHAPTER 7. FINANCE

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ARTICLE III. PROCUREMENT CODE

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DIVISION 3. SOURCE SELECTION AND CONTRACT FORMATION

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Section 7-137. Competitive sealed bidding.

(a) *Conditions for use.* ~~Competitive~~ Unless otherwise prohibited by state or federal laws, rules or regulations, competitive sealed bidding shall be used for the solicitation and award of all contracts over ~~fifty thousand dollars (\$50,000.00), or~~ one hundred thousand dollars (\$100,000.00) ~~for construction contracts~~, when the city is capable of specifically defining the scope of work required or capable of establishing precise specifications.

(b) *Invitation for bids (IFB).* An invitation for bids shall be issued and shall include specifications, scope of work, and all contractual terms and conditions applicable to the procurement.

(c) *Public notice.* Adequate public notice of the invitation for bids shall be given at a reasonable time prior to the date set forth therein for the opening of bids.

(d) *Pre-bid conferences.* Pre-bid conferences may be held to explain the requirements of the solicitation to prospective bidders.

(e) *Bid opening.* Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place stated in the public notice and invitation for bids. The amount of each bid and such other relevant information as may be deemed desirable, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection in accordance with F.S. Chapter 119, Public Records Act.

(f) *Bid acceptance and evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as

inspection, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used, including past performance. No criteria may be used in bid evaluations that are not set forth in the invitation for bids.

(g) *Correction or withdrawal of bids; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the ~~director~~ manager of the purchasing department after consultation with the city attorney.

(h) *Bid evaluation.* The ~~director~~ manager of the purchasing department shall recommend award to the lowest responsive and responsible bidder whose bid meets the requirements set forth in the invitation for bids.

(i) *Award.* Consistent with the provisions of section 7-129, the bid shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder, whose bid meets the requirements and criteria set forth in the invitation for bids. Awards may include authority for subsequent options for renewal. Options for renewal shall be exercisable at the option of the ~~director~~ manager of the purchasing department if, after review of past performance under the contract, the ~~director~~ manager determines that exercise of the option renewal is in the best interest of the city.

(1) In the event the lowest responsive and responsible bid exceeds available funds, the ~~director~~ manager of the purchasing department or city manager is authorized, when time or economic considerations preclude re-solicitation of bids, to negotiate an adjustment in price with the lowest responsive and responsible bidder, in order to bring the bid price within the amount of available funds.

(2) The ~~director~~ manager of the purchasing department may conduct negotiations limited to the lowest responsive and responsible bidder regarding contractual terms and conditions. Said negotiations are permissible only to the extent that they do not materially alter the contemplated contract and are not contrary to the interest of the city or fair treatment of other bidders.

(3) In the event only one (1) bid is received, the city may award to the sole responsive and responsible bidder, proceed with contract negotiations with the sole responsive and responsible bidder, or re-bid, whichever is in the best interest of the city.

(4) Authority to award subsequent lowest responsive and responsible bidders. If within ninety (90) days after bids are opened, or any period of time that bids are to remain firm as prescribed in the invitation for bids, the initial award is rescinded or the contract is terminated, the city may elect to award the contract to the next lowest responsive and responsible bidder. After the acceptance period prescribed, the city may award to the next lowest responsive and responsible bidder provided:

- a. A determination is made that it is in the best interest of the city to award based upon the bids submitted rather than re-bid; and
- b. The next lowest responsive and responsible bidder agrees, in writing, to the extension of the bid for the additional period of time. The city manager has the authority to award, to the next lowest responsive and responsible bidder, a contract that does not exceed one hundred thousand dollars (\$100,000.00). The city council has the sole authority to award contracts exceeding one hundred thousand dollars (\$100,000.00) to the next lowest responsive and responsible bidder upon recommendation by the city manager.

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Section 7-142. Informal procurement procedure (~~small-purchases~~).

- (a) The ~~director~~ manager of the purchasing department may purchase supplies and services not exceeding five thousand dollars (\$5,000.00) with the use of informal quotations. The formal competitive procurement process enumerated in sections 7-137 and 7-138 shall not be required for such purchases. The method used in selecting the source of supplies or services under this section, shall be made by the ~~director~~ manager of the purchasing department in writing.
- (b) Purchases exceeding five thousand dollars (\$5,000.00) up to ~~fifty thousand dollars (\$50,000.00)~~ one hundred thousand dollars (\$100,000.00) shall require at least three (3) written informal quotations from qualified suppliers or service providers. The formal competitive procurement process enumerated in sections 7-137 and 7-138 shall not apply to such purchases. The ~~director~~ manager of the purchasing department shall negotiate, as appropriate, the price, delivery and terms of the purchase. The ~~director~~ manager of the purchasing department shall also strive to obtain adequate and reasonable competition for such procurement insofar as it is practicable and shall require the maintenance of adequate written records to document the purchasing decision. Such records shall be open to public inspections. The provisions of this section shall not apply to architectural, engineering, landscape architectural, or surveying and mapping services defined in F.S. § 287.055, Consultants' Competitive Negotiation Act.
- (c) Procurement requirements shall not be artificially divided so as to permit use of informal procurement procedures prescribed in this section instead of the methods otherwise applicable.

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Section 2. Repeal. All ordinances or parts of ordinances in conflict or inconsistent are hereby repealed.

Section 3. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it

being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification. The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by _____ vote of the Vice Mayor as acting Mayor and City Council on first reading this _____ day of October, 2014.

PASSED AND ADOPTED by _____ vote of the Vice Mayor as acting Mayor and City Council on second reading this _____ day of October, 2014.

PHILIPPE BIEN-AIME
VICE MAYOR AS ACTING MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Vice Mayor as Acting Mayor Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.